

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

AARON BENOR, aka RAFI RENE, aka RONNY MASON, aka RONY BENOR

Smog Check Inspector License Applicant

Smog Check Repair Technician License Applicant

Respondent.

Case No. 79/19-13928

OAH No. 2020060651

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on January 26, 2021.

IT IS SO ORDERED this 15th day of December, 2020.

/s/

GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

BEFORE THE BUREAU OF AUTOMOTIVE REPAIR

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Statement of Issues against:

**AARON BENOR, AKA RAFI RENE, AKS RONNY MASON, AKA
RONY BENOR, Respondent**

Agency Case No. 79/19-13928

OAH No. 2020060651

PROPOSED DECISION

Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on September 30, 2020.

Deputy Attorney General Mario Cuahutle represented complainant.

Respondent Aaron Benor represented himself.

The record was closed and the matter was submitted for decision on September 30, 2020.

FACTUAL FINDINGS

Jurisdictional Matters

1. Patrick Dorais (complainant) brought the Statement of issues solely in his official capacity as the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.
2. On August 26, 2019, respondent filed applications for a Smog Check Inspector License and a Smog Check Repair Technician License with the Bureau.
3. On October 2, 2019, the Bureau denied both applications.
4. Respondent is doing business as (dba) Rafi Autotech (RA).

Respondent's License History

AUTOMOTIVE REPAIR DEALER REGISTRATION

5. On June 15, 1990, the Bureau issued Automotive Repair Dealer (ARD) Registration No. ARD 154249 to respondent, dba RA. The automotive repair dealer registration was scheduled to expire on June 30, 2020, unless renewed. No evidence was presented that respondent failed to timely renew his ARD registration prior to June 30, 2020.

SMOG CHECK STATION LICENSE

6. On July 10, 1990, the Bureau issued Smog Check Station License No. RC154249 to respondent, dba RA. The smog check station license was scheduled to

expire on June 30, 2020, unless renewed. No evidence was presented that respondent failed to timely renew his Smog Check Station License prior to June 30, 2020.

LAMP STATION LICENSE

7. On July 10, 1990, the Bureau issued Lamp Station License No. LS 154249, class A, to respondent, dba RA. The lamp station license was scheduled to expire on June 30, 2020, unless renewed. No evidence was presented that respondent failed to timely renew his Lamp Station License prior to June 30, 2020.

BRAKE STATION LICENSE

8. On July 10, 1990, the Bureau issued Brake Station License No. BS 154249, class A, to respondent, dba RA. The brake station license was scheduled to expire on June 30, 2020, unless renewed. No evidence was presented that respondent failed to timely renew his Brake Station License prior to June 30, 2020.

STAR STATION CERTIFICATION

9. On March 27, 2013, RA was certified as a STAR Station, which will remain active unless the ARD registration and/or SCSL is revoked, canceled, licenses become delinquent or certification is invalidated.

SMOG CHECK INSPECTOR LICENSE AND SMOG CHECK REPAIR TECHNICIAN LICENSES

10. In 1996, the Bureau issued Advanced Emission Specialist Technician License No. EA 313483 to respondent.

11. On August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

12. This Advanced Emission Specialist Technician License was cancelled on August 29, 2012, and was renewed, pursuant to respondent's election, as Smog Check Inspector License No. EO 313483 and Smog Check Repair Technician License No. EI 313483. Both licenses became effective on August 29, 2012.

13. On July 12, 2017, respondent's Smog Check Inspector License and Smog Check Repair Technician License were revoked.

BRAKE ADJUSTER LICENSE

14. In 2006, the Bureau issued Brake Adjuster License No. BA 313483, class A, to respondent.

15. On July 12, 2017, respondent's Brake Adjuster License was revoked.

LAMP ADJUSTER LICENSE

16. In 1990, the Bureau issued Lamp Adjuster License No. LA 313483, class A, to respondent.

17. On July 12, 2017, respondent's Lamp Adjuster License was revoked.

Respondent's Prior Discipline

AGENCY CASE NO. 79/16-106 – EFFECTIVE JULY 12, 2017

18. In a disciplinary action entitled "In the Matter of the Accusation Against Rafi Autotech, Aaron Benor, Owner, Aaron Benor, aka Rafi Rene, aka Ronny Mason, aka Rony Benor," Case No. 79/16-106, the Bureau issued a Decision and Order, effective July 12, 2017, in which Respondent was found to have violated Health and Safety Code section 44702.2, subdivision (d), and Business and Professions Code sections 9889.3, subdivision (a), and 9884.7, subdivision (a)(4).

19. The underlying events of this disciplinary matter involved respondent's September 9, 2014 attempts to subvert the California Lamp Adjuster Licensing examination.

20. Respondent's ARD registration, Smog Check Station License, Brake and Lamp Station Licenses, Smog Check Inspector License, Smog Check Repair Technician License, and Brake and Lamp Adjuster License were revoked. As to respondent's ARD registration, Smog Check Station License, and Brake and Lamp Station Licenses, the revocations were stayed, and these licenses were placed on probation for a period of two years, with terms and conditions. As to respondents Lamp Adjuster License, Brake Adjuster License, Smog Check Inspector License, and Smog Check Repair Technician License, all were revoked outright.

AGENCY CASE NO. 77/18-15216 – EFFECTIVE SEPTEMBER 30, 2019

21. In a disciplinary action entitled "In the Matter of the Statement of Issues Against: Aaron Benor, aka Rafi Rene, aka Ronny Mason, aka Rony Benor," Case No. 77/18-15216, the Bureau issued a Decision and Order, effective September 30, 2019, in

which Respondent's Lamp Adjuster License and Brake Adjuster License were granted, but immediately revoked. However, the revocations were stayed, and respondent's Lamp Adjuster License and Brake Adjuster License were placed on probation for a period of five years, with terms and conditions.

OTHER RELEVANT FACTS

22. Respondent currently holds six active licenses. Respondent has now re-applied for his Smog Check Inspector License and his Smog Check Repair Technician License.

23. Respondent re-applied for his previously revoked Brake and Lamp Inspector Licenses and those licenses were re-issued in September 2019. Respondent's Brake and Lamp Inspector Licenses were revoked at the same time as respondent's Smog Check Inspector License and a Smog Check Repair Technician License.

24. No evidence establishes any basis to treat respondent's current applications for re-issuance of his Smog Check Inspector License and a Smog Check Repair Technician License differently than respondent's prior applications for re-issuance of his Brake Adjuster License and Lamp Adjuster License, which were reissued in September 2019 and placed on 5 years' probation.

25. Respondent has learned his lesson. His wrongdoing was with respect to his Lamp Adjuster License, which was reissued in September 2019. He has been in the auto repair business for approximately 30 years and he has four employees. In 2019, respondent attended Bureau-approved training courses related to smog check inspections and repair.

26. Respondent has not had any other disciplinary issues. He has successfully completed probation with respect to his ARD registration, Smog Check Station License, Brake and Lamp Station Licenses. Respondent paid \$11,118.62 in costs.

27. Respondent's business was negatively impacted when his licenses were disciplined. His testimony established that he is remorseful and unlikely to commit any act which would put his licenses at risk of future discipline.

LEGAL CONCLUSIONS

STATUTORY PROVISIONS

1. Business and Profession Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made.

2. Health and Safety Code section 44072 provides, in pertinent part, that the director may refuse to issue a license to any applicant for the reasons set forth in Health and Safety Code section 44072.1.

3. Health and Safety Code section 44072.1 states, in pertinent part:

The director may deny a license if the applicant, or any partner, officer, or director thereof, does any of the following:

(b) Was previously the holder of a license issued under this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, ' 44000, et seq.)], which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Has committed any act which, if committed by any licensee, would be grounds for the suspension or revocation of a license issued pursuant to this chapter.

(d) Has committed any act involving dishonesty, fraud, or deceit whereby another is injured or whereby the applicant has benefitted.

4. Health and Safety Code section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

5. The Bureau maintains jurisdiction over any expired licenses pursuant to Business and Professions Code section 118, subdivision (b).

REGULATORY PROVISIONS

6. California Code of Regulations, title 16, section 3995.1 states:

A person whose registration has previously been refused validation or who has committed acts prohibited by Section 9984.7 of the Act shall, as a condition to and subsequent consideration of an application for validation of his registration, submit evidence which is deemed to be sufficient to establish his rehabilitation. The evidence of rehabilitation shall be submitted in addition to any other information which may be required by the bureau.

CAUSE FOR DISCIPLINE

PRIOR REVOKED LICENSES

7. Cause exists to deny respondent's applications pursuant to Business and Professions Code section 480, subdivision (a)(2), because respondent's licenses were revoked within the preceding seven years based on respondent's attempts to subvert the California Lamp Adjuster Licensing examination and respondent's misconduct is substantially related to the qualifications, functions, or duties of the automotive repair business.

8A. Cause exists to deny respondent's applications pursuant to Health and Safety Code section 44072.1, subdivision (b), because respondent's Smog Check Repair Technician License and Smog Check Inspector License were previously revoked and have not been re-issued.

8B. Respondent's ARD registration, Smog Check Station License, Lamp Station License, and Brake Station License were revoked, but the revocations were stayed, and respondent was placed on two years' probation. The period of probation expired in 2019 and those four licenses are now active without restriction.

Respondent's Brake Adjuster License and Lamp Adjuster License were revoked, but those licenses were re-issued in 2019. Therefore, the prior discipline imposed on these six licenses does not serve as a basis to deny respondent's applications pursuant to Health and Safety Code section 44072.1.

Analysis and Discussion

9. Respondent's ARD registration, Smog Check Station License, Brake and Lamp Station Licenses, are currently active and without restriction. Respondent's prior term of probation, with respect to these four licenses, ended on July 12, 2019.

10. Respondent's Brake and Lamp Adjuster Licenses were revoked effective July 12, 2017. Thereafter, respondent applied for the re-issuance of his Brake and Lamp Adjuster Licenses, which were re-issued on September 30, 2019, and then immediately revoked. The revocations were stayed and these licenses were placed on five years' probation, with terms and conditions.

11. Respondent has now applied for the re-issuance of his Smog Check Inspector License and Smog Check Repair Technician License. Respondent has demonstrated he has learned from the prior discipline and is unlikely to perform any further acts which might lead to discipline. Respondent is sufficiently rehabilitated to justify granting respondent's applications with the same terms and conditions that were applied to the re-issuance of respondent's Brake and Lamp Adjuster Licenses.

ORDER

IT IS HEREBY ORDERED that a Smog Check Inspector License and Smog Check Repair Technician License will be issued to Respondent Aaron Benor's, aka Rafi Rene,

aka Ronny Mason, aka Rony Benor and immediately revoked. However, the revocations are stayed, and Respondent is placed on probation for five years on the following terms and conditions.

1. Obey All Laws

During the period of probation, Respondent shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondent.

2. Quarterly Reporting

During the period of probation, Respondent shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3. Report Financial Interests

Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

4. Access to Examine Vehicles and Records

Respondent shall provide BAR representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and

including the point of completion. Respondent shall also provide BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

5. Tolling of Probation

If, during probation, Respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, Respondent shall notify BAR in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that Respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

6. Violation of Probation

If Respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once Respondent is served notice of BAR's intent to set aside the stay, the

Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

7. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with BAR, including any period during which suspension or probation is tolled. If Respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by Respondent within 30 days of that date. If Respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal Respondent's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.

8. Completion of Probation

Upon successful completion of probation, Respondent's affected registration and/or license will be fully restored or issued without restriction, if Respondent meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to BAR.

9. License Surrender

Following the effective date of a decision that orders a stay of invalidation or revocation, if Respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request that the stay be vacated. Such request shall be made in writing to BAR. The Director and the BAR Chief

reserve the right to evaluate the Respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of the surrendered registration and/or license, or apply for a new registration or license under the jurisdiction of BAR at any time before the date of the originally scheduled completion of probation. If Respondent applies to BAR for a registration or license at any time after that date, Respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

DATE: 11/18/2020

signed copy on file

CHRIS RUIZ

Administrative Law Judge

Office of Administrative Hearings